



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments identified by Docket No. MSHA-2023-0022 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2023-0022.
2. *Fax:* 202-693-9441.
3. *Email:* petitioncomments@dol.gov
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2023-013-C

Petitioner: Mach Mining, LLC, P.O. Box 300, Johnston City, IL, 62951

Mine: Mach #1 Mine, MSHA ID No. 11-03141, located in Williamson County, Illinois.

Regulation Affected: 30 CFR 75.1909(b)(6), Nonpermissible diesel-powered equipment; design and performance requirements.

Modification Request: The petitioner requests a modification of 30 CFR 75.1909(b)(6) to permit operation of the Getman grader No. RDG-1504C, serial No. 6941, without front brakes.

The petitioner states that:

- (a) Road conditions in a coal mine can become very rough to travel on and can pose a serious hazard which exposes miners to an array of injuries. The mine roadways are watered each day to keep dust from being suspended and multiple trailers and equipment travel to and from the working sections, leaving the roadways with ruts and irregularities.
- (b) If a mine emergency occurs, well-maintained roadways allow for safer operation of mobile equipment used to evacuate the mine ensuring quicker escape of miners.
- (c) If a miner is injured including being transported on a back brace, well-maintained roadways ensure the injured miner does not receive further injury during the ride out of the mine.
- (d) The grader may also be used to pull equipment from place to place throughout the mine, if necessary.
- (e) The addition of front brakes to the road grader could cause a loss of control if one of the brakes would lock up during operation. Furthermore, the size, weight, and location of the front brakes would put repair personnel in positions that could subject them to injury.
- (f) The grader is currently located on the mine surface and is available for inspection by MSHA.

The petitioner proposes the following alternative method:

- (a) The Getman grader No. RDG-1504C, serial No. 6941 (grader), is and will be maintained with 12.00 x 20.00 tires that will limit the speed of the grader to 10 miles per hour. All grader operators will be trained to lower the moldboard in emergency situations and before exiting the operator's compartment.
- (b) All grader operators will be trained to recognize appropriate levels of speed for the different road conditions.

The grader will not travel up or down the mine slope unassisted. If the grader is taken out of the mine, an additional piece of equipment with adequate braking capacity will be used

to assist removing the grader from the mine and take it back into the mine, via the mine slope.

- (c) Within 60 days after this Proposed Decision and Order (PDO) becomes final, the petitioner will submit a proposed revision for its approved part 48 training plan to the Mine Safety and Health Enforcement District Manager. The PDO will be covered in all task training for every employee that will be operating the grader and will be included in the mine's annual refresher training. The mine's management team and workforce will also be trained on the PDO.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

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